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3501

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05/04/92

S.T.

This application has been examined  Responsive to communication filed on 11/21/92  This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1.  Notice of References Cited by Examiner, PTO-892.  
3.  Notice of Art Cited by Applicant, PTO-1449.  
5.  Information on How to Effect Drawing Changes, PTO-1474.

2.  Notice re Patent Drawing, PTO-948.  
4.  Notice of Informal Patent Application, Form PTO-152  
6.  \_\_\_\_\_

Part II SUMMARY OF ACTION

1.  Claims 1-68 are pending in the application.  
Of the above, claims 63-68 are withdrawn from consideration.

2.  Claims \_\_\_\_\_ have been cancelled.

3.  Claims 1-31 are allowed.

4.  Claims 32-62 are rejected.

5.  Claims \_\_\_\_\_ are objected to.

6.  Claims \_\_\_\_\_ are subject to restriction or election requirement.

7.  This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8.  Formal drawings are required in response to this Office action.

9.  The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are  acceptable;  not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10.  The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been  approved by the examiner;  disapproved by the examiner (see explanation).

11.  The proposed drawing correction, filed \_\_\_\_\_, has been  approved;  disapproved (see explanation).

12.  Acknowledgement is made of the claim for priority under U.S.C. 119. The certified copy has  been received  not been received  been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13.  Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14.  Other

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Newly submitted claims 63-68, <sup>one</sup> directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the method as recited in claims 63-68 does not require the particular structure as recited in claims 1-62.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim <sup>63-68 are</sup> withdrawn from consideration as being directed to a non-elected invention. See 37 C.F.R. § 1.142(b) and M.P.E.P. § 821.03.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 32-62 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 32, for example, there is insufficient structure recited in the claims to support the functional language appearing in the last six (6) lines of the claim. Further, the structure which is included in the claim is vague and indefinite. For example, what constitutes a "riding surface", as recited in line 3 or a "wave-forming" structure, as recited in line 4. Claims 33-62 are indefinite for reasons

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structure positively included in the claims. Very little patentable weight is given the functional language or desired results appearing in these claims. Moreover, such language is not supported by positive structure as set forth above in the rejection on indefiniteness.

Applicant's arguments with respect to claim 32-62 have been considered but are deemed to be moot in view of the new grounds of rejection.

Claims 1-31 are allowable over the prior art of record.

Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication should be directed to Examiner D. Taylor at telephone number (703) 308-2168.

Taylor/ph  
April 20, 1992

  
Dennis L. Taylor  
Primary Examiner  
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